

REMARKS

By the amendments presented, claim 1 has been rewritten to more clearly emphasize the intended use of the claimed method. Support for this amendment is found in Applicants' specification at page 3, lines 5-8 and lines 16-20.

Also by the amendments presented, claim 11 has been rewritten to delete redundant listings of zinc sulfonate and zinc acetate within the recited Markush grouping.

Also by the amendments presented, claim 23 has been rewritten to emphasize that the claimed method must include a carbohydrate limitation, wherein the carbohydrate represents less than 3% w/w of the composition. Support for this amendment can be found in claim 1, which has now been amended accordingly, and in Applicants' specification at page 5, lines 17-21.

Upon entry of the amendments presented, claims 1-15 and 23 remain in the application. Claims 16-22 were previously canceled. No additional claims fee is due.

Rejection under 35 USC 112

Claims 1-15 and 23 have been rejected under 35 USC 112, second paragraph, as indefinite for reciting the term "good tasting." Responsive to this rejection, claim 23 (from which all other claims ultimately depend) has been amended to more clearly characterize the purpose of the claimed method as one to improve palatability of a zinc-containing aqueous solution. Applicants respectfully submit that all remaining claims are now in compliance with the definiteness requirements of 35 USC 112. This rejection should, therefore, be withdrawn.

Claim 11 has also been rejected under 35 USC 112, second paragraph, as indefinite for twice reciting each of zinc sulfonate and zinc acetate in the listed Markush grouping. Responsive to this rejection, the redundant Markush members have been deleted, thus obviating this particular rejection.

Rejection under 35 USC 102

Claims 1-2, 4-7, 9-14, and 23 have been rejected under 35 USC 102(b) as anticipated by U.S. Patent 5,985,339 (Kamarei). Applicants traverse this rejection as it would apply to the amended claims.

Kamarei discloses refrigerated, ready-to-drink, complete nutritional compositions that have been either pasteurized or ultra-pasteurized, and which include per 8 fluid ounces a specified percentage of essential macro and micro nutrients (see column 5, lines 24-56), including from 8-25% of the daily value of carbohydrate (see column 13, line 5 and column 5, lines 42 and 43), from 5-40% of the daily value of protein, and from 20-50% of the daily value of certain vitamins and minerals, including zinc (see column 5, lines 24-56). According to Kamarei, the daily value for carbohydrates is 300 g (see column 17, line

20, Table 1). The carbohydrate content of the Kamarei compositions therefore ranges from 10.5% to 33% by weight [calculated] of the ready-to-drink compositions.

Applicants respectfully submit that the Kamarie reference fails to disclose every limitation to which the broadest remaining claim (claim 23) has now been limited. Kamarie requires 10.5-33% by weight of carbohydrates, whereas Applicants' broadest claim is now limited to less than 3% by weight of carbohydrates.

Applicants have found that zinc can be added to an aqueous composition comprising less than 3% carbohydrates, without the expected off-flavor commonly associated with zinc consumption, provided that the aqueous composition also comprises from about 10 to about 40 mEq of citrate per liter. In failing to disclose carbohydrate concentrations less than 3% by weight of the composition, Kamarie also fails to disclose the combination of zinc, citrate, and low carbohydrate concentrations, a key combination to which all of Applicants' remaining claims are now limited.


In view of the amendments presented and the foregoing remarks, Applicants respectfully submit that rejection of the remaining amended claims as anticipated by Kamarie is no longer proper. This rejection should, therefore, be withdrawn.

Conclusion

Applicants have made an earnest effort to place their application in proper form and to distinguish their claimed invention from the applied prior art. WHEREFORE, reconsideration of this application, withdrawal of the rejections under 35 USC 102 and 112, and early allowance of all claims are respectfully requested.

Applicants also request the Examiner contact Applicants' Representative below if doing so might expedite disposition of this case.

Respectfully submitted,

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